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**EXECUTIVE BODY FOR THE CONVENTION ON LONG-RANGE
TRANSBOUNDARY AIR POLLUTION**

Twenty-sixth session
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Item 7 of the provisional agenda¹

Working Group on Strategies and Review

Forty-second session
Geneva, 1–5 September 2008
Item 4 of the provisional agenda²

**OPTIONS FOR REVISING THE PROTOCOL ON
PERSISTENT ORGANIC POLLUTANTS**

Note by the secretariat

1. The present document has been prepared by the Chair of the Working Group on Strategies and Review and the secretariat at the request of the Working Group at its forty-second session³. It lists the draft proposals for revising annexes to the Protocol on Persistent Organic Pollutants (POPs) that the Working Group considered at its forty-first and forty-second sessions and agreed to forward to the Executive Body at its twenty-sixth session with a view to providing

¹ ECE/EB.AIR/95.

² ECE/EB.AIR/WG.5/91.

³ See document ECE/EB.AIR/WG.5/92, para. 42 (a).

a basis for negotiating possible amendments to the Protocol. In addition, the document presents in its annex possible amendments to articles 14 and 16, along with a paragraph for inclusion in the covering decision, prepared by the ad hoc group of legal experts and discussed by the Working Group at its forty-second session.

2. The present document builds on and revises document ECE/EB.AIR/WG.5/2008/8 and Corr.1 that the Working Group considered at its forty-second session⁴. It reproduces the proposals from the above document as amended and agreed by the Working Group. In addition, the document contains those proposals that the Working Group agreed on earlier, at its forty-first session (ECE/EB.AIR/WG.5/2008/90, para. 20). For the proposals on which the Working Group could not reach consensus, the document lists the diverging positions and amendment proposals as they were put forward by the delegations at the forty-second session.

3. The proposals discussed by the Working Group at its forty-first and forty-second sessions were based on the review by the Task Force on POPs of the sufficiency and effectiveness of the Protocol obligations (EB.AIR/WG.5/2004/1 and EB.AIR/WG.5/2005/1) as well as on the exploration of the management options for the seven “new” substances accepted as POPs by the Parties to the Protocol⁵ (ECE/EB.AIR/WG.5/2007/14). Furthermore, these proposals reflected the review of the best available techniques (BAT) and the proposed changes to the emission limit values (ELVs) by the Task Force on POPs (EB.AIR/WG.5/2004/1 and EB.AIR/WG.5/2005/1, paras. 27–37)⁶.

4. In parallel to its forty-first and forty-second sessions, the Working Group had mandated an ad hoc group of technical experts to review annex IV to the Protocol on the limit values for dioxins and furans (PCCD/F) from major stationary sources and annex V on BAT to control emissions of POPs from major stationary sources. The technical experts were also requested to discuss proposals for BAT for new substances (PeCB, PCN and HCBd) as well as proposals for reduction of emissions of POPs from waste treatment of electronic and electrical equipment, furniture and car interiors.

⁴ Document ECE/EB.AIR/WG.5/2008/4 built on and revised document ECE/EB.AIR/WG.5/2008/8, which the Working Group considered at its forty-first session.

⁵ Hexachlorobutadiene (HCBd), octabromodiphenyl ether (OctaBDE), pentachlorobenzene (PeCB), pentabromodiphenyl ether (PentaBDE), perfluorooctane sulfonates (PFOS), polychlorinated naphthalenes (PCN), and short-chained chlorinated paraffins (SCCP).

⁶ For more details, see <http://www.unece.org/env/popsxg/3rdmeeting.htm> and individual chapters of sufficiency and effectiveness review 2 (e) BAT for major stationary sources: <http://www.unece.org/env/popsxg/2005/e%20BAT%20for%20major%20stationary%20sources%202.pdf>.

5. The Executive Body, and in particular Parties to the Protocol, is invited to discuss the proposals put forward by the Working Group on Strategies and Review at its forty-first and forty-second sessions and decide upon further action, including possibilities for negotiating amendments to the Protocol and decisions on the addition of substances to the Protocol annexes. In addition, it may wish to consider the proposed amendments to annexes IV and V to the Protocol prepared by the ad hoc group of technical experts in parallel to the Working Group's forty-first and forty-second sessions. These proposals are presented in informal documents 1 and 2 (available on the Convention website)⁷.

I. PROPOSED AMENDMENTS TO ANNEX I

6. The Executive Body may wish to consider the proposals in paragraphs 7 to 18 for listing substances in annex I. Each of the paragraphs corresponds to one substance.

7. Dichloro-diphenyl-trichloroethane (DDT)⁸:

(a) **European Union (EU):** Eliminate production and use without exemption; List in annex I only;

(b) **Canada:** Keep the specific uses exemptions as they are listed in annexes I and II of the Protocol in force.

8. **Heptachlor:** Delete the conditions for the elimination of use that are no longer relevant.

9. **Hexachlorobenzene (HCB):** Delete the conditions for the elimination of the production and use that are no longer relevant.

10. **Hexachlorobutadiene (HCBd):** List in annex I, to prevent production and use.

11. Hexachlorocyclohexane (HCH):

(a) **EU:** List HCH (CAS: 608-73-1) to eliminate its production and use, without exemptions;

⁷ <http://www.unece.org/env/lrtap/ExecutiveBureau/welcome.26.html>.

⁸ Currently there is no production or use of DDT in the UNECE region. However, according to the World Health Organization (WHO), the United Nations Food and Agriculture Organization and the United Nations Environment Programme (UNEP), DDT is still needed for public health protection in certain regions outside UNECE. Therefore, effective, economically viable and less environmentally hazardous alternatives to DDT continue to be needed there. WHO does not entirely exclude the possibility of outbreaks of malaria and other vector-borne diseases in the future. See informal document no 4 submitted to the forty-second session of the Working Group.

(b) **United States and Canada:** “Eliminate its production and use with the exception of uses for ‘public health purposes’, in case there are no other effective alternatives”.

12. **Octabromodiphenyl ether (OctaBDE)**⁹:

(a) Proposals for listing congeners:

(i) **Canada and the United States:** List PentaBDE and HexaBDE congeners individually;

(ii) **EU and Norway:** List congeners: tetraBDE, pentaBDE, hexaBDE and heptaBDE individually;

(b) Implementation requirements:

(i) **Norway:** “Use: None. Parties must take appropriate measures to ensure that recycling processes of articles manufactured or in use by the implementation date do not result in recovered material containing 0.1% or more of penta/octa by weight”;

(ii) **Canada:** Use in recycled articles.

13. **Pentachlorobenzene (PeCB):** List in annex I, to prevent production and use.

14. **Pentabromodiphenyl ether (PentaBDE)**¹⁰:

(a) Proposals on listing of PentaBDE and its congeners:

(i) **Canada and EU:** List tetraBDE and pentaBDE and hexaBDE congeners individually, to eliminate the production and use of commercial mixtures containing these congeners at concentrations greater than 0.1% per weight;

⁹ Commercial PentaBDE and commercial OctaBDE contain polybrominated diphenyl ethers with varying degrees of bromination, typically consisting of penta- to deca-bromodiphenyl ether isomers (ECE/EB.AIR/WG.5/2007/14).

¹⁰ According to information submitted by the Bromine Science and Environmental Forum: “The most scientifically sound, enforceable and practical option would listing those specific Tetra, Penta and HexaBDE isomers present in the commercial products that have been evaluated (BDEs, 47, 85, 99, 100, 153, 154). These six BDEs account for more than 99 per cent of the BDE mass found in historic c-pentaBDE and also account for the Br6 BDEs found in c-OctaBDE”.

(ii) **United States:** List substances defined in decision POPRC-3/1 of the Persistent Organic Pollutants Review Committee under the UNEP Stockholm Convention on POPs: “2,2', 4,4'- tetrabromodiphenyl ether (BDE-47, CAS No. 40088-47-9) and 2,2',4,4',5-pentabromodiphenyl ether (BDE-99, CAS No. 32534-81-9) and other tetra- and pentabromodiphenyl ethers present in commercial pentabromodiphenyl ether, using BDE-47 and BDE-99 as markers for enforcement purposes.” ;

(b) Proposals on implementation requirements:

(i) **Norway:** “Parties must take appropriate measures to ensure that recycling processes of articles manufactured or in use by the implementation date do not result in recovered material containing 0.1% or more of [C-pentaBDE] by weight.”;

(ii) **Canada:** Use in recycled articles.

15. **Perfluoronate sulfonates (PFOS):**

(a) Include one or several of the proposed definitions:

(i) **European Union (EU):** PFOS, including the 96 congeners (perfluorooctane sulfonates C₈F₁₇SO₂X (X=OH, metal salt, halide, amide or other derivatives including polymers) [in concentration higher than 0.005 per cent by mass];

(ii) **United States:** PFOS (Perfluorooctane sulfonic acid C₈F₁₇SO₂X (X=OH, CAS No. 1763-23-1);

(iii) **Decision POPRC-3/5 of the Persistent Organic Pollutants Review Committee under the Stockholm Convention:** “Perfluorooctane sulfonic acid (CAS No. 1763-23-1), its salts and perfluorooctane sulfonyl fluoride (CAS No. 307-35-7)¹¹”.

¹¹ The definition of **POPRC-3/5** may be revisited in line with possible changes negotiated under the Stockholm Convention.

(b) Proposals for restricted uses, to be included either in annex I or in annex II:

(i) **EU:** First proposal: Exemptions should be included for the following uses and the production related to these uses:

- a. Photo resists or anti reflective coatings for photolithography processes;
- b. Photographic coatings applied to films, papers, or printing plates;
- c. Mist suppressants for non-decorative hard chromium (VI) plating and wetting agents for use in controlled electroplating systems;
- d. Hydraulic fluids for aviation;
- e. Fire-fighting foams that have been placed on the market before the ban can be used until [2011];

Second proposal: Add qualification: “Restricted uses of PFOS shall be reassessed no later than two years after the entry into force of the Protocol”;

(ii) **United States (supported by Canada)**: None except for uses listed in Annex II. (See para. 23 for the proposed exemptions to be listed in annex II);

(iii) **Canada**: Exemptions (to listed in annex II). (See para. 23 for proposed further exemptions to be listed in annex II). Chromium electroplating, chromium anodizing and reverse etching; electroless nickel-polytetrafluoroethylene plating; and etching of plastic substrates prior to their metalization.

(iv) **Norway**: Add conditions of stockpiles of fire-fighting foam containing more than 0.005% PFOS by weight to be identified, collected and destroyed;

16. **Polychlorinated biphenyls (PCBs):**

- (a) Keep in annex I to eliminate production and use, except as identified in annex II;
- (b) Delete the conditions for the elimination of the production that are no longer relevant;
- (c) Delete the footnote related to “ugilec”.

17. **Polychlorinated naphthalenes (PCN)**: List in annex I, to prevent production and use.

18. **Short-chained chlorinated paraffins (SCCP)**:

- (a) **Norway and the EU:** List SCCPs, to eliminate production and use;
- (b) **Task Force on POPs:** Exemptions should be listed for the following uses and the production related to these uses: “1. Dam sealants and conveyor belts for underground mining; 2. Non-emissive applications i.e. as a plasticizer in paints, coatings and sealants and as a flame retardant in rubber, textiles and plastics”;
- (c) **EU:** The need for essential uses are still being assessed;
- (d) **United States:** List SCCPs in annex II and specify allowed uses and related conditions in the implementation requirements.

II. PROPOSED AMENDMENTS TO ANNEX II

19. The Executive Body may wish to consider the proposals in paragraphs 21 to 25 for listing substances in annex II. Each of the paragraphs corresponds to one substance.

20. **DDT:** Delete the specific uses exemption 2 “as a chemical intermediate to produce Dicofol”;

- (a) **EU:** To be listed only in annex I.

21. **HCH:**

- (a) **United States and Canada:** Restrict the use of lindane to the following use: topical insecticide for public health purposes, in case there are no other effective alternatives;

- (b) **EU:** Delete from annex II, to be included only in annex I.

22. **PCB:**

- (a) Define as follows:
 - (i) **EU, the United States and Canada:** “Polychlorinated biphenyls” means aromatic compounds formed in such a manner that the hydrogen atoms on the biphenyl molecule (two benzene rings bonded together by a single carbon-carbon bond) may be replaced up to ten chlorine atoms (as defined in the Stockholm Convention);

(ii) **EU:** Retain the definition provided in the Stockholm Convention and complete it with the following text: “For countries within the geographical scope of EMEP¹², PCBs include: polychlorinated biphenyls; polychlorinated terphenyls (PCT); ugilecs (Monomethyl-tetrachlorodiphenyl methane, monomethyl-dichloro-diphenyl methane, monomethyl-dibromo-diphenyl methane; and any mixture containing any of the abovementioned substances in a total of more than 0.005% by weight”.

(b) **Norway, the EU, Canada and the United States:** Under implementation requirements, conditions for specific use, amend the paragraphs (b) to (c) in the Protocol in force as follows:

(i) After paragraph (a), add a new paragraph (b) that reads Parties shall endeavour to identify and remove from use (e.g. transformers, capacitors or other receptacles containing liquid stocks) containing greater than 0.005 per cent PCBs and volumes greater than 0.05 dm³, as soon as possible, but no later than 31 December 2025;

(ii) Change current paragraph (b) into paragraph (c);

(iii) Change current paragraph (c) into paragraph (d); and add reference to paragraph (b);

(iv) Add “Parties shall:” followed by new paragraph (e) that reads: “Ensure that equipment containing polychlorinated biphenyls, as described in subparagraphs (a) and (b), shall not be exported or imported except for the purpose of environmentally sound waste management;

(v) Add new paragraph (f) that reads “Endeavour to identify other articles containing more than 0.005 per cent polychlorinated biphenyls (e.g. cable-sheaths, cured caulk and painted objects) and manage them in accordance with paragraph 3 of article 3”;

(vi) Add new paragraph (g) that reads:

“Promote the following measures to reduce exposures and risk to control the use of polychlorinated biphenyls:

¹² The Cooperative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe.

- i. Use only in intact and non-leaking equipment and only in areas where the risk from environmental release can be minimized and quickly remedied;
- ii. Not use in equipment in areas associated with the production or processing of food or feed;
- iii. When used in populated areas, including schools and hospitals, all reasonable measures to protect from electrical failure which could result in a fire, and regular inspection of equipment for leaks”;

(c) **Norway:** Amend the current paragraph (c) to read as follows: **“Parties shall make determined efforts designed to lead to: (c) The destruction or decontamination in an environmentally sound manner of:**

- (i) All liquid PCBs referred to in subparagraph (a) and other liquid PCBs containing more than 0.005% PCBs not in equipment, as soon as possible but no later than 31 December 2015, or 31 December 2020 for countries with economies in transition;
- (ii) All liquid PCBs referred to in subparagraph (b) no later than 31 December 2025”;

23. **PFOS:**

(a) **The United States (supported by Canada):** Include below exemptions in annex II (as referred to in para. 15 above):

- (i) Use as an anti-erosion additive in fire-resistant phosphate ester aviation hydraulic fluids;
- (ii) Use as a component of a photoresist substance, including a photo acid generator or surfactant, or as a component of an anti-reflective coating, used in a photomicrolithography process to produce semiconductors or similar components of electronic or other miniaturized devices;
- (iii) Use in coating for surface tension, static discharge, and adhesion control for analog and digital imaging films, papers, and printing plates, or as a surfactant in mixtures used to process imaging films;
- (iv) Use as a component of an etchant, including a surfactant or fume suppressant, used in the plating process to produce electronic devices;

(v) Use as a mist/fume suppressant in metal finishing and plating baths, e.g. hard chrome plating, decorative chromium plating, chromic acid anodizing, nickel, cadmium, or lead plating; metal plating on plastics; and alkaline zinc plating.

(vi) Use as an intermediate to produce chemical substances for hydraulic fluids used in aviation, semiconductor manufacturing, and photographic coatings ((i), (ii), and (iii) above).

(b) **Canada:** Include following further exemptions into annex II (as referred to in para. 15 above):

(i) Chromium electroplating, chromium anodizing and reverse etching;

(ii) Electroless nickel-polytetrafluoroethylene plating;

(iii) Etching of plastic substrates prior to their metalization.

24. **SCCP:**

(a) **The United States:** Include the following restricted uses: “Metal working fluids and non-emissive applications e.g. as a plasticizer or flame retardant in paints, inks, coatings and sealants, rubber, textiles and plastics and insulation fiber”.

25. **PentaBDE:**

(a) **The United States:** Specify the following use: “Use of imported articles”

III. PROPOSED AMENDMENTS TO ANNEX III

26. The Executive Body may wish to consider the proposals in paragraphs for listing substances in annex III.

27. **EU:**

(a) Specify the reference year for PCBs, PCN, PeCB and HCBd as follows: “2000; or an alternative year from 1995 to 2005 inclusive, specified by a Party upon ratification, acceptance, approval or accession”;

(b) Add a footnote referring to PCBs that reads: “c/ Polychlorinated biphenyls emitted as unintentional by-product”;

(c) For PCN, PeCB and HCBd the emission inventory should be established on a voluntary basis, in derogation to article 9, paragraph 1 (b), to the Protocol, which provides for obligatory reporting of emissions.

28. **Canada and the United States:** PCN, PeCB and HCBd should not be listed in annex III.

IV. PROPOSED AMENDMENTS TO ANNEX IV

29. The Executive Body may wish to consider the following proposed changes to annex IV to the Protocol prepared by an ad hoc group of technical experts in parallel to and in between the forty-first and forty second sessions of the Working Group on Strategies and Review.

30. At the end of paragraph 2 of annex IV, add the words “and for a given oxygen content”.

31. Amend paragraph 3 of annex IV to read (newly introduced words are highlighted in bold): Limit values relate to the normal operating situation, including **in some cases** start-up and shutdown procedures, unless specific limit values have been defined for those situations.

32. Amend the first sentence of paragraph 4 of annex IV to read (newly introduced words are highlighted in bold): “Sampling and analysis of all pollutants shall be carried out according to **the most up-to-date** standards laid down by the Comité européen de normalisation (CEN), the International Organization for Standardization (ISO), or the corresponding United States or Canadian reference methods”. Add a footnote that reads: “Current CEN measurement standards are EN 1948-1, EN 1948-2 and EN 1948-3, for PCDD/Fs sampling, extraction/purification and analysis, respectively. A new TS 1948-4 was issued in 2007 with regard to PCB-DL measurements”. Delete the last sentence of paragraph 4: “While awaiting the development of CEN or ISO standards, national standards shall apply”.

33. Amend the paragraph 6 of annex IV to read: Emissions of PCDD/F are given in toxicity equivalents (TE). The toxic equivalent factor values to be used for the purposes of this Convention shall be consistent with accepted international standards, commencing with the World Health Organization 2005 mammalian toxic equivalent factor values for polychlorinated dibenzo-pdioxins and dibenzofurans and coplanar polychlorinated biphenyls. Add the following reference and text into a footnote: Van den Berg, 2005 (The 2005 WHO Re-evaluation of Human and Mammalian Toxic Equivalency Factors for Dioxins and Dioxin-like Compounds). The WHO study included dioxin-like PCB TEFs values for the first time. These were not previously included in the calculation of ELVs.

34. As regards the proposed changes to ELVs for major stationary sources, in paragraph 7 of annex IV, the Working Group expressed the following positions:

(a) Decrease the ELV for medical solid waste from 0.5 to 0.1 ng TE/m³;

(i) **EU and Canada:** 0.1 ng TE/m³ is technically feasible;

(ii) **Other Parties:** 0.5 ng TE/m³ is technically feasible;

(b) Decrease the ELV for hazardous waste from 0.2 to 0.1 ng TE/m³.

(i) **EU and Canada:** 0.1 ng TE/m³ is technically feasible;

(ii) **Other Parties:** 0.2 ng TE/m³ is technically feasible.

(c) Regarding new emission limit values for additional emission source categories, the Working Group considered that on the basis of annex V, it was technically possible to reduce emissions as follows:

(i) Electric Arc Furnaces: <0.1 – 0.5 ng TEQ/m³;

(ii) Non-hazardous industrial waste: 0.1 ng TEQ/m³;

(iii) Sinterplants: <0.1 – 0.5 ng TEQ/m³;

(iv) Secondary production of copper and aluminum: <0.1 – 0.5 ng TEQ/ m³.

V. PROPOSED AMENDMENTS TO ANNEX V

35. The Executive Body may wish to consider the informal document 2 on annexes IV and V to the Protocol on POPs prepared by an ad hoc group of technical experts in parallel to the forty-first and forty second sessions of the Working Group on Strategies and Review¹³.

¹³ Available at: <http://www.unece.org/env/lrtap/ExecutiveBureau/welcome.26.html>.

VI. PROPOSED AMENDMENTS TO ANNEX VII

36. As a result of the phase out of leaded petrol in most parts of the UNECE region, petrol-fuelled vehicles are no longer a relevant source of PCDD/PCDF¹⁴. Furthermore, diesel-powered engines that are formally a main source of fine particulates with PAHs¹⁵ as a major component are subject to stricter controls for particulate matter (PM) under regulations outside of the Protocol¹⁶.

37. Based on the findings of the sufficiency and effectiveness review, the Executive Body may wish to consider the proposal to delete the contents of annex VII.

VII. PROPOSED AMENDMENTS TO ANNEX VIII

38. The Executive Body may wish to consider the following proposals to amend annex VIII:

- (a) Amend the description of the category in the list of categories as follows:
 - (i) At the end of the description of category 1, insert [“or of non-hazardous industrial waste.”];
 - (ii) At the end of the description of category 3, insert: [“primary production of magnesium”]; chlorine based methods;
 - (iii) At the end of the list, insert a new category 13 with a description reading: [“Large volume production of chlorinated hydrocarbons”];
 - (iv) Insert a new category 14 with a description reading: [“Installations for recycling or shredding of municipal and industrial waste”];

¹⁴ PCDDs – polychlorinated dibenzodioxins; PCDFs – polychlorinated [dibenzofurans](#).

¹⁵ Polycyclic aromatic hydrocarbons.

¹⁶ For more details see the paragraphs 33 to 37 of document EB.AIR/WG.5/2005/1.

(b) **EU:** “Instead of the inclusion of “primary production of magnesium” and the new category 13 “large volume production of chlorinated hydrocarbons”, insert “specific chemical production processes” as a new point 7 bis and “other processes used in metallurgic industry” as a new point 5 bis.

Annex

**PROPOSED AMENDMENTS TO ARTICLE 14 TO THE PROTOCOL
BY THE AD HOC GROUP OF LEGAL EXPERTS**

As approved by the Working Group on Strategies and Review at its forty-second session
(New text is indicated in bold)

A. Text for inclusion in the covering decision

Any Party that was not already a Party on *[insert date of adoption of amendment to article 14]* should declare in its instrument of ratification, acceptance, approval or accession if it does not intend to be bound by the procedure set out in article 14, paragraph 5 bis as regards the amendment of annexes I–IV, VI and VIII.

B. Amendments to article 14

Article 14

AMENDMENTS

1. Any Party may propose amendments to the present Protocol.
2. Proposed amendments shall be submitted in writing to the Executive Secretary of the Commission, who shall communicate them to all Parties. The Parties meeting within the Executive Body shall discuss the proposed amendments at its next session, provided that the proposals have been circulated by the Executive Secretary to the Parties at least 90 days in advance.
3. Amendments to the present Protocol and, **subject to paragraphs 5 bis and 5 ter below**, to annexes I–IV, VI and VIII, shall be adopted by consensus of the Parties present at a session of the Executive Body, and shall enter into force for the Parties which have accepted them on the ninetieth day after the date on which two thirds of those **that were Parties at the time of their adoption** have deposited with the Depositary their instruments of acceptance thereof. Amendments shall enter into force for any other Party on the ninetieth day after the date on which that Party has deposited its instrument of acceptance thereof.

4. Amendments to annexes V and VII shall be adopted by consensus of the Parties present at a session of the Executive Body. On the expiry of 90 days from the date of its communication to all Parties by the Executive Secretary of the Commission, an amendment to any such annex shall become effective for those Parties which have not submitted to the Depositary a notification in accordance with the provisions of paragraph 5 below, provided that at least 16 Parties have not submitted such a notification.

5. Any Party that is unable to approve an amendment to annex V or VII shall so notify the Depositary in writing within 90 days from the date of the communication of its adoption. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time substitute an acceptance for its previous notification and, upon deposit of an instrument of acceptance with the Depositary, the amendment to such an annex shall become effective for that Party.

5 bis. (a) Amendments to annexes I–IV, VI and VIII shall be adopted by consensus of the Parties present at a session of the Executive Body. On the expiry of one year from the date of its communication to all Parties by the Executive Secretary of the Commission, an amendment to any such annex shall become effective for those Parties which have not submitted to the Depositary a notification in accordance with the provisions of subparagraph (b) below.

(b) Any Party that is unable to approve an amendment to annexes I–IV, VI and VIII shall so notify the Depositary in writing within one year from the date of the communication of its adoption. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time substitute an acceptance for its previous notification and, upon deposit of an instrument of acceptance with the Depositary, the amendment to such an annex shall become effective for that Party.

(c) Any amendment to annexes I–IV, VI and VIII shall not enter into force if an aggregate number of 16 or more Parties have either:

(i) Submitted a notification in accordance with the provisions of subparagraph (b) above; or

(ii) Not accepted the procedure set out in this paragraph and not yet deposited an instrument of acceptance in accordance with the provisions of paragraph 3 above.

5 ter. For those Parties having accepted it, the procedure set out in paragraph 5bis above supersedes the procedure set out in paragraph 3 above in respect of amendments to annexes I–IV, VI and VIII.

6. In the case of a proposal to amend annexes I, II, or III by adding a substance to the present Protocol:

(a) The proposer shall provide the Executive Body with the information specified in Executive Body decision 1998/2, including any amendments thereto; and

(b) The Parties shall evaluate the proposal in accordance with the procedures set forth in Executive Body decision 1998/2, including any amendments thereto.

7. Any decision to amend Executive Body decision 1998/2 shall be taken by consensus of the Parties meeting within the Executive Body and shall take effect 60 days after the date of adoption.

Article 16

RATIFICATION, ACCEPTANCE, APPROVAL AND ACCESSION

1. The present Protocol shall be subject to ratification, acceptance or approval by Signatories.

2. The present Protocol shall be open for accession as from 21 December 1998 by the States and organizations that meet the requirements of article 15, paragraph 1.

3. Any Party that was not already a Party on *[insert date of adoption of amendment to article 14]* shall declare in its instrument of ratification, acceptance, approval or accession if it does not intend to be bound by the procedure set out in Article 14, paragraph 5 bis as regards the amendment of annexes I–IV, VI and VIII.
